

Message Text

CONFIDENTIAL

PAGE 01 LIMA 08946 01 OF 02 301630Z

42

ACTION DHA-02

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 2037

C O N F I D E N T I A L SECTION 1 OF 2 LIMA 8946

EO 11652: GDS

TAGS: SHUM, MASS, PE

SUBJ: CONGRESSIONAL REQUEST FOR DETAILED HUMAN RIGHTS STATEMENT

REF: STATE 237726, STATE 237752

THE FOLLOWING IS A RE-DRAFT OF THE STATEMENT ON HUMAN RIGHTS IN PERU CONTAINED IN STATE 237726, EXPANDED TO COVER THE POINTS LISTED IN PARA 3 OF STATE 237752.

BEGIN TEXT OF DRAFT STATEMENT:

1. POLITICAL SITUATION - PERU HAS BEEN RULED BY A MILITARY GOVERNMENT SINCE THE COUP OF OCTOBER 3, 1968, WHICH OVERTHREW THE ELECTED PRESIDENT FERNANDO BELAUNDE TERRY. WITHIN THE LATIN AMERICAN CONTEXT, PERU'S EIGHT-YEAR OLD EXPERIMENT IN MILITARY-GUIDED SOCIAL AND ECONOMIC CHANGE HAS BEEN REMARKABLY FREE FROM THE TAIN OF SYSTEMATIC POLITICAL REPRESSION CHARACTERISTIC OF SOME OTHER MILITARY REGIMES.

2. ON AUGUST 29, 1975, GENERAL JUAN VELASCO, THE ARCHITECT OF PERU'S "REVOLUTION", WAS OUSTED IN A BLOODLESS COUP BY SENIOR MILITARY OFFICERS. THEN PRIME MINISTER (GENERAL) FRANCISCO MORALES BERMUDEZ BECAME PRESIDENT. ALTHOUGH THE GENERAL CHARACTER

CONFIDENTIAL

PAGE 02 LIMA 08946 01 OF 02 301630Z

OF THE REGIME REMAINED LARGELY THE SAME -- A STATIST, AUTHORITARIAN

MILITARY-TECHNOCRAT RULE -- THERE WERE INITIALLY POSITIVE CHANGES IN THE HUMAN RIGHTS AREA. MORALES BERMUDEZ' STYLE OF GOVERNING CONTRASTED SHARPLY WITH THAT OF VELASCO, WHO WAS OFTEN ERRATIC AND ARBITRARY IN DEALING WITH THE OPPOSITION. ONE OF MORALES BERMUDEZ' FIRST MEASURES ON ASSUMING THE PRESIDENCY WAS TO PROMISE AN AMNESTY FOR POLITICIANS AND JOURNALISTS WHO HAD BEEN EXILED BY THE PREVIOUS REGIME. BY EARLY 1976 HE HAD LARGELY FULFILLED THAT PROMISE, ALTHOUGH LATER DEVELOPMENTS CAUSED CERTAIN FAR-LEFT ACTIVISTS TO AGAIN BE EXILED. THEIR EXPULSION THIS TIME WAS BECAUSE OF POLICY AND BASED ON EVIDENCE RATHER THAN PERSONAL WHIM.

3. AN INCREASINGLY DIFFICULT ECONOMIC SITUATION CREATED BY THE WORLD RECESSION AND BY UNREALISTIC INTERNAL ECONOMIC POLICIES LED THE GOP IN JULY, 1976 TO ENACT MUCH NEEDED BUT UNPOPULAR ECONOMIC AUSTERITY MEASURES, WHICH IN TURN HEIGHTENED POPULAR DISCONTENT. FOLLOWING DISTURBANCES, THE GOVERNMENT IMPOSED A STATE OF EMERGENCY AND SUSPENDED CONSTITUTIONAL GUARANTEES THROUGHOUT PERU. A CURFEW (NOW 1 A.M. TO 5 A.M. IN LIMA) WAS IMPOSED AND SECURITY MEASURES CONSIDERABLY TIGHTENED.

4. THE MILITARY APPARENTLY HAS NO INTENTION OF RELINQUISHING RULE TO CIVILIANS FOR THE FORESEEABLE FUTURE, DESPITE THE APPOINTMENT OF CIVILIANS TO HIGH GOVERNMENT POSTS FOR THE FIRST TIME IN EIGHT YEARS. THE GOVERNMENT'S DISCUSSION OF POPULAR PARTICIPATION IN THE POLITICAL PROCESS EVEN AT LOWER ADMINISTRATIVE LEVELS HAS THUS FAR BEEN UNSPECIFIC, ALTHOUGH TRADITIONAL POLITICAL PARTIES ARE HOPEFUL THAT AN "OPENING TOWARD DEMOCRACY" WILL BE FORTHCOMING.

5. LEGAL SITUATION - THE BASIC PERUVIAN LAW IS THE CONSTITUTION OF 1933, AS AMENDED, WHICH CONTAINS GUARANTEES OF UNIVERSALLY RECOGNIZED HUMAN RIGHTS. HOWEVER, THE MILITARY GOVERNMENT CONSIDERS THE REVOLUTIONARY STATUTE OF 1968 TO SUPERCEDE THE CONSTITUTION WHEREVER THE TWO CONFLICT. PROVISIONS OF THE CONSTITUTION DEEMED NOT IN ACCORD WITH THE GOVERNMENT'S OBJECTIVES AND METHODS HAVE BEEN SUSPENDED. CONGRESS IS DISBANDED AND ELECTIONS SUSPENDED. LAWS ARE ENACTED BY DECREE, ALTHOUGH SOME ARE SUBMITTED TO AN INVOLVED PROCESS OF CONSULTATION AND QUASI-REFERENDUM BEFORE BEING PROMULGATED. THE CONSTITUTION PERMITS THE SUSPENSION OF ITS LEGAL PROTECTIONS WHEN THE SECURITY OF THE STATE REQUIRES, CONFIDENTIAL

CONFIDENTIAL

PAGE 03 LIMA 08946 01 OF 02 301630Z

AND THE CURRENT STATE OF EMERGENCY WAS PROCLAIMED IN ACCORDANCE WITH THE CONSTITUTION. SINCE THE ENACTMENT OF THE STATE OF EMERGENCY,

THE NUMBER OF ARRESTS AND DETENTIONS (PRIMARILY OF LEFTISTS AND LABOR LEADERS) HAS INCREASED, A STRICT CURFEW HAS BEEN ENFORCED AND RUMORS ABOUT MISSING PERSONS HAVE BECOME MORE FREQUENT. THOSE DETAINED ARE OFTEN RELEASED FOLLOWING SOMEWHAT DILATORY INTERROGATION. AFTER THREE MONTHS UNDER THE CURRENT STATE OF

EMERGENCY THERE IS NO INDICATION THAT THE GOVERNMENT IS CONSIDERING REINSTATING CONSTITUTIONAL GUARANTEES.

6. PERUVIAN COURTS ARE NOT INDEPENDENT OF THE EXECUTIVE. THE MILITARY GOVERNMENT HAS OVERRULED COURTS ON MATTERS PERTAINING TO GOVERNMENT POLICY AND CIVILIAN COURTS HAVE NO JURISDICTION AT ALL IN SECURITY CASES.

7. OBSERVANCE OF INTERNATIONALLY-RECOGNIZED HUMAN RIGHTS -
(A) INTEGRITY OF THE PERSON - ARTICLE 3: THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON IS GENERALLY RESPECTED. THE MILITARY GOVERNMENT DOES NOT EXECUTE POLITICAL PRISONERS, NOR DOES IT GENERALLY CONDONE FLAGRANT DENIALS OF PERSONAL SECURITY. WITH THE FEW KNOWN EXCEPTIONS, THE GOVERNMENT DOES NOT ARBITRARILY DENY PERUVIANS THE RIGHT TO LIBERTY.

ARTICLE 5: THE PERUVIAN GOVERNMENT INSISTS IT DOES NOT CONDONE TORTURE AND OTHER INHUMAN AND DEGRADING TREATMENT OF DETAINEES. HOWEVER, LAW ENFORCEMENT TECHNIQUES AND PRISON CONDITIONS IN PERU CONFORM TO THE LATIN AMERICAN PATTERN, ARE OFTEN ARBITRARY AND DEGRADING, AND HAVE GIVEN RISE TO ISOLATED REPORTS OF POLICE BRUTALITY.

ARTICLE 8: PERUVIAN CITIZENS CANNOT BE SURE OF OBTAINING A REMEDY FOR GOVERNMENT ACTS VIOLATING FUNDAMENTAL RIGHTS GRANTED BY THE CONSTITUTION. THIS IS IN PART BECAUSE THE COURT SYSTEM IS HIGHLY BUREAUCRATIZED AND INEFFICIENT, AND IN PART BECAUSE SOME OF THOSE RIGHTS HAVE BEEN SUSPENDED BY DECREE. THE COURTS LACK THE AUTHORITY AND INDEPENDENCE REQUIRED TO REVIEW GOVERNMENT ACTIONS.

ARTICLE 9: PERSONS SUSPECTED OF HOSTILE POLITICAL OR SECURITY ACTIVITIES ARE OCCASIONALLY SUBJECTED TO ARBITRARY ARREST AND DETENTION WITHOUT CHARGES, OR EXILE. AFTER THE OVERTHROWN OF THE CONFIDENTIAL

CONFIDENTIAL

PAGE 04 LIMA 08946 01 OF 02 301630Z

CIVILIAN GOVERNMENT IN 1968, A NUMBER OF POLITICIANS ASSOCIATED WITH THE PREVIOUS REGIME WERE SO AFFECTED. DURING THE VELASCO REGIME, PARTICULARLY ITS LAST YEARS, AN ESTIMATED 100-150 PERSONS WERE EXPELLED FROM PERU OR CHOSE VOLUNTARY EXILE. THESE INCLUDED STUDENTS, UNION ACTIVISTS AND PEASANT LEADERS. PRESIDENT MORALES BERMUDEZ GRANTED AMNESTY TO MANY THUS AFFECTED, BUT IN RECENT MONTHS HIS GOVERNMENT TOO HAS RESORTED TO SIMILAR, EXTRA-CONSTITUTIONAL MEASURES TO PREVENT A RAPID DETERIORATION OF THE INTERNAL SECURITY SITUATION IN THE FACE OF ECONOMIC DIFFICULTIES AND TO FORESTALL LEFTIST-INSPIRED STRIKES.

ARTICLE 10: SOME PERSONS ARRESTED FOR SUSPECTED POLITICAL AND SECURITY VIOLATIONS HAVE NOT HAD AN OPEN COURT HEARING TO DETERMINE RIGHTS AND CHARGES.

ARTICLE 11: THE RIGHT TO A FAIR TRIAL IS GENERALLY OBSERVED IN PERU, WITHIN THE TRADITIONAL CONSTRAINTS OF LATIN AMERICAN JURISPRUDENCE. IN A SMALL NUMBER OF CASES POLITICAL OR SECURITY FACTORS ARE GIVEN PRIORITY AND TRIAL IS BY SPECIAL COURT MARTIAL.

(B) OTHER FREEDOMS - THE PERUVIAN GOVERNMENT DOES NOT CONDONE RACIAL DISCRIMINATION OF ANY KIND, AND THAT WHICH IS EVIDENT RESULTS FROM TRADITIONAL ATTITUDES OF THE SOCIETY. INDEED, THE REVOLUTIONARY GOVERNMENT HAS TAKEN ACTIVE STEPS TO IMPROVE ACCESS TO LEGAL RECOURSE AND PROVIDE IMPROVED ECONOMIC AND EDUCATIONAL OPPORTUNITIES TO ITS LARGE INDIAN POPULATION WHICH HAS BEEN EXPLOITED SINCE THE SPANISH CONQUEST. PERUVIANS ARE FREE TO TRAVEL WITHIN THE COUNTRY, WITHIN THE CONTEXT OF THE RESTRAINTS ON FREEDOM OF MOVEMENT TRADITIONALLY PRACTICED IN LATIN AMERICA AND THE SPECIFIC SITUATION OF THE PRESENT STATE OF EMERGENCY. NO SIGNIFICANT POLITICAL LIMITATIONS ARE PLACED ON TRAVEL ABROAD.

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PAGE 01 LIMA 08946 02 OF 02 301631Z

42

ACTION DHA-02

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P 301450Z SEP 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 2038

C O N F I D E N T I A L SECTION 2 OF 2 LIMA 8946

8. IN THE PROCESS OF ATTEMPTING TO ACHIEVE BROADER STATE AND POPULAR PARTICIPATION IN PERU'S ECONOMIC PROCESSES, THE MILITARY GOVERNMENT HAS EXPROPRIATED PROPERTY BELONGING TO BOTH PERUVIANS AND FOREIGNERS. COMPENSATIONS PAID TO FOREIGNERS, UNDER THE AEGIS OF AGREEMENTS NEGOTIATED WITH THE GOOD OFFICES OF THE U.S. GOVERNMENT, HAVE BEEN JUST AND ADEQUATE. COMPENSATION TO MOST PERUVIANS, HOWEVER, HAS BEEN INADEQUATE WHEN PAID, OR HAS BEEN IN THE FORM OF ILLIQUID AND GENERALLY UNMARKETABLE

GOVERNMENT BONDS. THE OWNERS OF EXPROPRIATED NEWSPAPERS HAVE NOT RECEIVED ANY FORM OF COMPENSATION AT ALL. PERSONAL PROPERTY, AS DIFFERENTIATED FROM INCOME-PRODUCING PROPERTY, HAS NOT GENERALLY BEEN EXPROPRIATED.

9. FREEDOM OF EXPRESSION IS LIMITED IN PERU. NATIONAL CIRCULATION NEWSPAPERS WERE EXPROPRIATED IN 1974 BY PRESIDENT VELASCO AND WERE TO BE ASSIGNED WITHIN A SPECIFIED TIME PERIOD TO VARIOUS ORGANIZED SECTORS OF SOCIETY (PEASANTS, LABOR ORGANIZATIONS, INTELLECTUALS, ETC) UNDER A VARIETY OF GOVERNMENT CONTROLS. HOWEVER, GOVERNMENT RELINQUISHMENT OF DIRECT EDITORIAL CONTROL OF NEWSPAPERS HAS BEEN POSTPONED TWICE SINCE 1974, AND DESPITE THE RECENT APPOINTMENT OF A HIGH LEVEL COMMISSION TO STUDY THE SITUATION OF THE PRESS AND MAKE RECOMMENDATIONS, IT IS UNLIKELY THAT THE GOVERNMENT WILL TURN THE MAJOR NEWSPAPERS OVER TO THE "ORGANIZED SECTORS" OF PERUVIAN SOCIETY. RADIO, TELEVISION AND WIRE SERVICE REPORTINGS ARE CONFIDENTIAL

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PAGE 02 LIMA 08946 02 OF 02 301631Z

TROLLED BY A NEWLY-CREATED INFORMATION OFFICE OR MINISTRY OF PROPAGANDA. THE MORALES BERMUDEZ GOVERNMENT PERMITTED PRIVATELY-OWNED WEEKLY JOURNALS CLOSED BY VELASCO TO RE-OPEN. HOWEVER, THE GOVERNMENT WAS TAKEN ABACK BY VIGOROUS CRITICISM FROM POLITICAL JOURNALS AND, FOLLOWING JULY 1, 1976 DISTURBANCES, CLOSED POLITICAL PERIODICALS BOTH OF THE RIGHT AND LEFT. THE MORE POLITICALLY-MODERATE JOURNALS ARE EXPECTED TO RE-OPEN FOLLOWING ISSUANCE OF NEW REGULATIONS WITH PROVISION FOR GOVERNMENT CENSORSHIP.

10. ALTHOUGH POLITICAL PARTIES CONTINUE TO EXIST LEGALLY IN PERU, THEY ARE PERMITTED NO DIRECT ROLE IN SHAPING GOVERNMENT POLICIES. UNDER THE PRESENT STATE OF EMERGENCY THEY DO NOT ENJOY THE RIGHT OF PUBLIC ASSEMBLY. IN NORMAL TIMES THE PARTIES HOLD OUTDOOR ASSEMBLIES ONLY WITH EXPRESS GOVERNMENT PERMISSION.

11. EMBASSY COMMENT ON PART 4 OF STATE 237726, "OTHER HUMAN RIGHTS REPORTING": EMBASSY BELIEVES THAT AMNESTY INTERNATIONAL'S 1974 "REPORT ON TORTURE" IS OVERDRAWN IN THE PERUVIAN CASE. WHAT QUALIFIES AS "POLICE BRUTALITY" IN THE EYES OF A FOREIGN OBSERVER MAY, IN THE HISTORICAL PERUVIAN OR LATIN AMERICAN CONTEXT, BE STANDARD OPERATING PROCEDURES FOR LAW ENFORCEMENT AGENCIES. ALTHOUGH FALLING SHORT OF U.S. STANDARDS IT APPROXIMATES INTERNATIONAL MINIMUM STANDARDS OF JUSTICE. WHILE ARBITRARY, INTIMIDATING AND DEGRADING TREATMENT OF DETAINEES IS NOT UNCOMMON, IT IS TOO SWEEPING TO STATE THAT "SOME TORTURE TECHNIQUES ARE COMMON PRACTICE DURING INTERROGATION OF ALL KINDS OF PRISONERS". REGARDING THE 1974-75 "ANNUAL REPORT" ALLEGATIONS ON TORTURE, THE EMBASSY'S COLLECTIVE MEMORY IS THAT PRESIDENT VELASCO DID INDEED PUBLICLY CONDEMN THE ALLEGED INCIDENTS OF TORTURE IN A PROVINCIAL TOWN AND INITIATE AN INVESTIGATION INTO ITS PRACTICE. OUR RECOLLECTION, HOWEVER, IS THAT A LOCAL POLICE CHIEF WAS FORCED TO RESIGN, NOT THE NATIONAL HEAD OF THE PIP.

12. CONCERNING STEPS THE U.S. GOVERNMENT HAS TAKEN TO PROMOTE RESPECT FOR AND OBSERVANCE OF HUMAN RIGHTS, THE EMBASSY HAS BEEN ACTIVE PARTICULARLY IN U.S. CITIZEN PROTECTION CASES. IN JULY, THE AMBASSADOR CALLED UPON THE FOREIGN MINISTER TO REQUEST THAT U.S. CITIZENS CAUGHT UP IN THE DRUG TRAFFIC RECEIVE SPEEDIER TRIALS. IN AUGUST THE CHARGE ALSO CALLED UPON THE ACTING HEAD OF THE NATIONAL COUNCIL OF JUSTICE (OVERSEER OF THE COURT SYSTEM) TO DRIVE HOME THE NEED FOR SPEEDY TRIALS. THE EMBASSY IS IN
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PAGE 03 LIMA 08946 02 OF 02 301631Z

REGULAR CONTACT WITH THE GOP ATTORNEY GENERAL ON PRINCIPLES OF HUMAN RIGHTS PROTECTION AND IN REGARD TO SPECIFIC CASES.

13. THE EMBASSY (IN CARRYING OUT DEPARTMENT INSTRUCTIONS TO COLLECTIVE ADDRESSEES) HAS CALLED THE ATTENTION OF THE GOP TO THE USG COMMITMENT TO PROMOTE RESPECT FOR HUMAN RIGHTS. IN APPROACHES TO THE FOREIGN OFFICE WE HAVE LINKED RESPECT FOR HUMAN RIGHTS WITH U.S. ASSISTANCE PROGRAMS. OUR RECENT CU PROGRAMS HAVE BEEN USEFUL. GEORGE REEDY, NOW DEAN OF MARQUETTE UNIVERSITY'S JOURNALISM SCHOOL SPOKE CLEARLY TO PERUVIAN PRESS OF U.S. COMMITMENT TO HUMAN RIGHTS AND FEMINIST LEADER JOAN GOODIN OF U.S. RAILWORKERS UNION ELUCIDATED WORLDWIDE DEVELOPMENT OF WOMEN'S RIGHTS. LABOR LEADER EXCHANGES AND AIFLD FRONT ROYAL PROGRAM ALSO DEMONSTRATED U.S. SUPPORT FOR HUMAN RIGHTS AND DEVELOPMENT OF FREE AND INDEPENDENT INSTITUTIONS.

14. THE GOP HAS COOPERATED IN MATTERS OF INTERNATIONAL PROTECTION FOR HUMAN RIGHTS. THROUGH ITS OFFICE OF IMMIGRATION, THE GOP HAS WORKED WITH THE EMBASSY AND THE U.N. HUMAN RIGHTS COMMISSION TO FACILITATE THE IMMIGRATION OF CHILEAN REFUGEES TO THE U.S.

15. WHILE HUMAN RIGHTS ARE NOT FULLY RESPECTED IN PERU, THE EMBASSY DOES NOT CONSIDER VIOLATIONS TO BE SO SYSTEMIC OR OF SUCH MAGNITUDE AS TO CALL INTO QUESTION U.S. ASSISTANCE PROGRAMS. WE ARE ENGAGING IN AN ONGOING REVIEW OF THE HUMAN RIGHTS SITUATION, ESPECIALLY IN VIEW OF THE INCREASED SECURITY CONSCIOUSNESS OF THE GOP AND THE CONTINUING SUSPENSION OF CONSTITUTIONAL GUARANTEES.
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